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MARTIN & FERRARO, LLP  
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Hartville, Ohio 44632

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**FACSIMILE TRANSMITTAL**

**TO:**

Name: Mail Stop AMENDMENT  
Group Art Unit 3764/Examiner Michael Brown

Firm: U.S. Patent & Trademark Office

Fax No.: 703-872-9306

Subject: U.S. Patent Application No. 09/497,590  
Gary Karlin Michelson

Filed: June 6, 2000

APPARATUS INCLUDING A GUARD MEMBER  
HAVING A PASSAGE WITH A NON-  
CIRCULAR CROSS SECTION FOR  
PROVIDING PROTECTED ACCESS TO THE  
SPINE (as amended)

Attorney Docket No. 101.0044-03000

Customer No. 22882

Confirmation No.: 7688

**FROM:**

Name: Thomas H. Martin, Esq.

Phone No.: 330-877-2277

No. of Pages (including this): 4

Date: November 2, 2004

Confirmation Copy to Follow: NO

**Message:**

**CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8**

I hereby certify that the attached Transmittal Form (in duplicate) and Reply to Restriction  
Requirement is being facsimile transmitted to the U.S. Patent and Trademark Office on  
November 2, 2004.



Sandra L. Blackmon

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FORM PTO-1083

Attorney Docket No.: 101.0044-03000  
Customer No. 22882

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Gary Karlin Michelson, M.D.

Serial No: 09/497,590

Filed: June 6, 2000

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SPINE (as amended)

Confirmation No.: 7688

Art Unit: 3764

Examiner: Michael Brown

Mail Stop AMENDMENT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

Transmitted herewith is a Reply to the Restriction Requirement dated October 4, 2004 in the above-identified application.

- No additional fee is required.
- Applicant hereby requests a \*\*\*-month extension of time to respond to the above office action.
- A check in the amount of \$\_\_\_\_ to cover the \*\*\*-month extension of time fee is enclosed.
- The Commissioner is hereby authorized to charge any deficiencies of fees associated with this communication or credit any overpayment to Deposit Account No. 50-1066. A copy of this sheet is enclosed.
- Any filing fees under 37 C.F.R. § 1.16 for the presentation of extra claims
- Any patent application processing fees under 37 C.F.R. § 1.17

Respectfully submitted,  
MARTIN & FERRARO, LLP

Date: November 2, 2004

By:   
Thomas H. Martin  
Registration No. 34,383

1557 Lake O'Pines Street, NE  
Hartville, Ohio 44632  
Telephone: 330-877-0700  
Facsimile: 330-877-2030

FORM PTO-1083

Attorney Docket No.: 101.0044-03000  
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PATENT  
Attorney Docket No. 101.0044-03000  
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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**REPLY TO RESTRICTION REQUIREMENT**

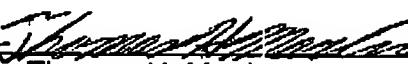
In reply to the Restriction Requirement dated October 4, 2004, Applicant provisionally elects to prosecute claims 105-187 directed to Group I.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this reply, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 50-1066.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: November 2, 2004

By: 

Thomas H. Martin  
Registration No. 34,383

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